

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. H-06/08-271  
 )  
Appeal of )

INTRODUCTION

The petitioner appeals a decision of the Department for Children and Families, Health Access Eligibility Unit terminating her daughter from the Dr. Dynasaur program until a spenddown amount is met. The issue is whether the petitioner's household income is in excess of the program maximum.

FINDINGS OF FACT

1. The petitioner lives with her husband and their young daughter. At a June eligibility review the Department determined that the petitioner's monthly income from employment, after the standard \$90 disregard, is \$4,502.91. At the hearing in this matter (held on July 10, 2008), the petitioner represented that while her income is likely to diminish in the near future, her husband now has income that was not considered by the Department in its June calculations. Thus, the petitioner concedes that her income for the foreseeable future will be equal to or greater than the amount determined by the Department in its June review.

2. The petitioner's daughter has been a Dr. Dynasaur (Medicaid) recipient for some time. Unfortunately, she has a chronic illness and requires frequent and expensive medical care and pharmaceutical maintenance.

3. The Department notified the petitioner of its decision in a notice dated June 12, 2008, effective July 1, 2008. The petitioner appeals that determination, asking if her daughter can remain on Dr. Dynasaur until she is able to find private insurance for her.<sup>1</sup>

ORDER

The Department's decision is affirmed.

REASONS

Under the regulations, the Department must inform recipients in writing at least 10 days prior to any adverse action regarding their financial eligibility for any of its medical benefits programs. Although this may well be short notice for a family that needs to acquire alternative coverage, benefits can continue (as is the case here) if the recipient requests a fair hearing. However, once the underlying issue of financial eligibility is resolved, the

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<sup>1</sup> Benefits have been continued pending the outcome of this fair hearing.

Board does not have discretion to continue benefits when a beneficiary is no longer income eligible.

In this case, there is no dispute that the family's countable income after a \$90 earned income disregard is at least \$4,502.91 per month. The maximum income in the Dr. Dynasaur program for a family of three is \$4,413. Procedures Manual § P2420B(1). As the family is over income, the Department was correct in terminating coverage, and the Board is bound to affirm that decision. 3 V.S.A. § 3091(d), Fair Hearing Rule 17.

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